

SUPERIOR COURT, MARIN COUNTY, CALIFORNIA
CIVIL CALENDAR AND MINUTES

F: 40-5318M. WALTON 4m

456-7920

RULINGS

JA. WILSON 391-3900 F:

954-093

DATE: FRI., NOV. 19, 1993 TIME: 9:00 REPORTER: J. KNETZGER
 POSITION DUE: 11/12/93 JUDGE: GARY W. THOMAS CLERK: J. BANKSON
 COPY DUE: 11/17/93 DEPT. NO. 1 COMPLETED:

CASE NO.	TITLE OF ACTION	PROCEEDING	ATTORNEY
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3) 157680 CHURCH OF SCIENTOLOGY
 INTERNATIONAL
 V
 GERALD ARMSTRONG, ET AL

THE DEMURRER OF DEFENDANT MICHAEL WALTON ON THE GROUND OF UNCERTAINTY IS OVERRULED. THIS ACTION DOES NOT REQUIRE A DETERMINATION OF WHETHER ARMSTRONG IS LIABLE FOR BREACHING THE SETTLEMENT AGREEMENT. A TRANSFER OF PROPERTY CAN BE FRAUDULENT AND A CREDITOR CAN OBTAIN REMEDIES WITHOUT A DETERMINATION OF THE ULTIMATE VALIDITY OF THE CREDITOR'S CLAIM. (SEE CIV. CODE, §§ 3439.01(b) & (c), 3439.04, 3439.07.) IN ADDITION, THIS ACTION CAN BE PURSUED BEFORE A JUDGMENT IN THE LOS ANGELES COUNTY ACTIONS. (ID.)

THE DEMURRER ON THE GROUND OF FAILURE TO STATE FACTS SUFFICIENT TO CONSTITUTE A CAUSE OF ACTION IS OVERRULED. PARAGRAPHS 29 AND 36 PLEAD FACTS MEETING THE REQUIREMENTS OF CIVIL CODE SECTION 3439.04(a). PARAGRAPHS 30, 31, 37, AND 38 PLEAD FACTS MEETING THE REQUIREMENTS OF SECTION 3934.04(b)(2).

THE MOTION TO STRIKE IS DENIED. AS EXPLAINED ABOVE, THIS ACTION DOES NOT SEEK OR REQUIRE A DETERMINATION THAT ARMSTRONG BREACHED THE SETTLEMENT AGREEMENT. THUS, THIS ACTION IS NOT SIMPLY AN ATTEMPT TO AVOID THE ORDERS IN THE LOS ANGELES COUNTY ACTIONS.

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